



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/149421

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on June 20, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly placed Petitioner in restrictive re-enrollment effective April 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Belinda Bridges, Income Maintenance Worker Advanced  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner began working for [REDACTED] in August 2012 and she became eligible for health insurance through [REDACTED] in October 2012. However, Petitioner did not apply for health insurance through her employer in October 2012, because it was more cost-effective to stay enrolled in BadgerCare+. (Testimony of Petitioner)
3. On December 24, 2012, the agency sent Petitioner a notice of action indicating that effective February 1, 2013, she would no longer be enrolled in BadgerCare+ because she failed to pay a premium and

because her income was over the program limit. The notice further advised Petitioner that if she did not pay the premium by January 31, 2013, she would be placed on restrictive reenrollment. (Exhibit 2, pgs. 6 and 7)

4. On January 31, 2013, Petitioner paid the premium due for her December 2012 BadgerCare+ benefits. (Exhibit 2, pg. 11)
5. On February 1, 2013, the agency sent Petitioner a notice of action indicating that effective immediately, she would need to pay a \$496.00 monthly premium in order to receive BadgerCare+ benefits. (Exhibit 2, pgs. 18-24)
6. Petitioner did not pay the premium for February 2013 or March 2013, because she had access to health insurance through her employer and was going to apply for that insurance. (Testimony of Petitioner)
7. On February 15, 2013, Petitioner completed a renewal for FoodShare and healthcare benefits. (Exhibit 2, pgs. 27-41)
8. At about that same time, Petitioner applied for benefits through her employer. (Testimony of Petitioner)
9. On February 26, 2013, the agency sent Petitioner a notice indicating that as of April 1, 2013, she would not be enrolled in BadgerCare+ because she had not paid her premium and that if she did not pay the premium by the end of the next month, she would be placed in restrictive re-enrollment for 12 months. (Exhibit 2, pgs. 41-46)
10. Petitioner's healthcare coverage through her employer became effective March 1, 2013. (Exhibit 1, pg. 5)
11. Effective April 2, 2013, Petitioner was laid off from [REDACTED] and therefore, lost her healthcare coverage effective April 30, 2013. (Petitioner's testimony; Exhibit 2, pgs. 5 and 49)
12. On May 7, 2013, the agency sent Petitioner a notice indicating that as of June 1, 2013, she would not be enrolled in BadgerCare+ because she had not paid a premium and was in restrictive reenrollment. (Exhibit 2, pgs. 6 & 7)
13. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 16, 2013. (Exhibit 1)
14. Petitioner's monthly earned income, up until she was laid off in April 2013, was \$2571.20 per month (80 hours per paycheck x \$16.07 per hour x 2 pay periods per month). See Exhibit 2, pg. 48.
15. Petitioner's two children each received SSI in the amount of \$1325 per month, for a total of \$2650 per month. (Exhibit 1, pg. 21 and pgs. 50-53)

### DISCUSSION

Unless a member of a category of exempt individuals (i.e. pregnant women under age 19, continuously eligible newborns, etc.) the following individuals must pay a premium to become or remain eligible for BadgerCare+:

1. Children in families with income over 200% of the Federal Poverty Level (FPL)
2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL
3. Parents, stepparents and caretaker relatives with income over 133% in a BadgerCare+ extension and
4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.

*BadgerCare+ Eligibility Handbook (BEH) §19.1*

If the (adult) individual fails to pay the premium, her BadgerCare+ case will close. She will not be allowed to re-enroll in BadgerCare+ for 12 months, unless the failure to pay was for good cause. Wis. Adm. Code § DHS 103.085(3)(b)1; BEH § 19.8.1

Good cause for not paying a premium includes the following:

1. Problems with the financial institution.
2. CARES problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

*BadgerCare Plus Eligibility Handbook, § 19.8.3*

Restrictive Re-enrollment does not apply when, “an individual who owes a premium for quitting BC+ in the current months voluntarily quits BC+ for these reasons:

1. No person is non-financially eligible for BC+
2. The individual moved out of Wisconsin
3. Health insurance became available for the individual
4. The individual is now eligible without a premium
5. The individual has an increase in income that makes him/her BC+ ineligible.

*BadgerCare Plus Eligibility Handbook, § 19.11.4*

Petitioner contests the agency’s determination to place her in restrictive re-enrollment due to her failure to pay premiums for February and March 2013.

The agency sent Petitioner a notice on February 26, 2013, indicating that she would not be enrolled in BadgerCare+ effective April 1, 2013, if she failed to pay the premiums due. It is clear from the record that Petitioner chose to apply for health insurance through her employer, rather than pay the BadgerCare+ premiums for February and March 2013. This is good cause to voluntarily quit BadgerCare+ under *BEH §19.11.4*, above.

In addition, Petitioner’s household income of \$5221.20 (\$2571.20 earned income + \$2650 SSI for her children) was over \$3255 / 200% of FPL for a household of 3. There is no indication that Petitioner was in a BadgerCare+ extension, so she wasn’t even eligible for BadgerCare+, even with a premium. *See BEH§§16.1 and 50.1* The fact that Petitioner was no longer financially eligible for BadgerCare+ is also good cause under *BEH §19.11.4* to quit BadgerCare+. As such, Petitioner should not have been placed in restrictive re-enrollment.

It is unclear from the record whether Petitioner submitted a new application for benefits, after April 30, 2013, when she lost health insurance coverage through her employer. If Petitioner has not already done so, she will have to file a new application for benefits.

The agency argues that Petitioner should be placed in restrictive reenrollment because she did not notify the agency of her decision to quit BadgerCare+. However, there is nothing in either *BEH §7, or §27.2*, that allows restrictive re-enrollment to be used as a sanction for failing to report other insurance. A more appropriate sanction might be the recoupment of any erroneously issued benefits.

Petitioner should note that the agency might be able to seek a recoupment of benefits dating back to October 2012, because she had access to health insurance through her employer between October 2012 and April 30, 2013, and that access to other insurance might have made her ineligible for benefits, under the provisions of *BEH §7.3*.

### **CONCLUSIONS OF LAW**

The agency incorrectly placed Petitioner in restrictive reenrollment effective April 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the agency remove Petitioner from restrictive re-enrollment. If Petitioner applied for BadgerCare+ benefits after April 30, 2013, and if Petitioner is otherwise eligible for benefits, the agency shall make Petitioner's benefits effective from the date of application. The agency shall take all steps necessary to complete these tasks within ten days of this decision.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

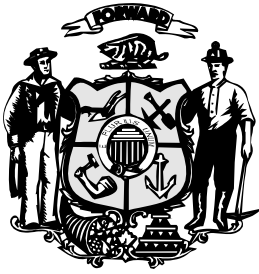
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 8th day of July, 2013.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 8, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability